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New York

SUMMARY RECORD OF THE 3rd MEETING

Chairman: Mr. MUTHAURA (Kenya)

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The meeting was called to order at 3.40 p.m

REQUESTS FOR HEARINGS

1. The CHAIRMAN informed the Committee that he had received a communication containing a request for a hearing relating to Guam under agenda item 18. He suggested that, in accordance with the usual practice, it should be circulated as a Committee document and considered at a subsequent meeting.

2. It was so decided.

3. The CHAIRMAN drew attention to 11 communications containing requests for hearings concerning agenda item 18, relating to Gibraltar (A/C.4/50/2 and Add.1), New Caledonia (A/C.4/50/3), Western Sahara (A/C.4/50/4 and Add.1) and Guam (A/C.4/50/5 and Add.1-5). He took it that the Committee wished to grant those requests.

4. It was so decided.

5. The CHAIRMAN informed the Committee that, in connection with Mr. Ruddy's request for a hearing on the question of Western Sahara, he had consulted the parties concerned and other officers of the Committee, as well as with the Office of Legal Affairs, which had provided its views on the matter. He intended to consult further with the parties concerned, and Committee officers and would report back to the Committee.

6. Mr. LAMAMRA (Algeria) said that before the Committee could act on the request, the routine matter of its circulation must first be settled; the objection voiced by one delegation should not constitute a right to veto that circulation. He was not opposed to further consultations, but found it incongruous that reference should be made to a request which had not yet been circulated to the Committee to which it was addressed. He therefore requested clarification of the Chairman's intentions concerning its circulation, which should precede any further steps.

7. Mr. BELCAID (Morocco) said that his delegation would continue to oppose the circulation of Mr. Ruddy's request.

8. Mr. SAMADI (Islamic Republic of Iran), supported by Mr. MWAMBULUKUTU (United Republic of Tanzania) and Mr. SENGWE (Zimbabwe), said that he endorsed the Chairman's intention to continue consultations.

9. Mr. LAMAMRA (Algeria) reiterated the concern expressed by the representative of Cuba at the previous meeting that further consultations would disrupt the Committee's adopted work schedule. Mr. Ruddy was a private individual who could not prolong his stay indefinitely to await the Committee's reply to his request. He therefore hoped that reason would prevail to allow Mr. Ruddy to address the Committee. He formally requested, however, that no document concerning Mr. Ruddy's request should be circulated if the request itself had not first been officially circulated to the Committee, since it would

be both paradoxical and scandalous that a right of reply should be exercised if the Committee was unaware of the subject matter.

10. The CHAIRMAN said that the timetable was flexible enough to allow, if necessary, for the hearing of an additional petitioner and that consultations on the matter would continue the following day.

AGENDA ITEM 18: IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES (continued)

Hearing of representatives of Non-Self-Governing Territories

Question of Gibraltar

11. At the invitation of the Chairman, Mr. Bossano (Chief Minister of Gibraltar) took a place at the table.

12. Mr. BOSSANO (Chief Minister of Gibraltar) observed that the people of Gibraltar had been demanding self-determination since 1963. The United Kingdom, the administering Power in Gibraltar - and as such under a Charter obligation to develop self-government and take account of the political aspirations of Gibraltarians - was, it should be noted, a signatory to the International Covenant on Civil and Political Rights establishing the universal applicability of the right to self-determination. Gibraltar was one of the few remaining colonial Territories and demanded to be allowed, like all the rest, to determine its own political status.

13. His Government had participated actively in the mid-term review of the Plan of Action for the International Decade for the Eradication of Colonialism, called for in General Assembly resolution 49/89 of 16 December 1994. The seminar held for the purpose by the Special Committee on decolonization had given the Non-Self-Governing Territories an excellent opportunity to explain their own situations and to explore with the Special Committee the broad spectrum of decolonization options open to them, all of them based, of course, on self-determination. Gibraltar had asked the Special Committee to review the relevance to the country of article 10 of the Treaty of Utrecht of 1713, because the administering Power was citing it as the only impediment to full recognition of his people's right to self-determination. His Government had formally and repeatedly rejected that argument. Obviously no political status options could be available to the people of Gibraltar if their only choice was to be a colonial possession either of London or of Madrid. As the elected leader of the people of Gibraltar, he now asked the Committee to authorize the Special Committee on decolonization to seek an advisory opinion from the International Court of Justice regarding the applicability to Gibraltar of the article in question.

14. As required by the Plan of Action for the Decade, Gibraltar had continued to publicize the role of the United Nations in decolonization, particularly as part of its National Day activities. The people of Gibraltar were extremely conscious of the drive for self-determination and for decolonization, and their Government had maintained a high level of involvement in the work of the United

Nations in that field. His people had faith in the Organization as the forum which championed the concept of equality.

15. Equality, sad to say, had been totally absent from the decisions on Gibraltar adopted annually by the Committee, each of which, at Spain's insistence, had treated Gibraltar as if it did not exist. To support the untenable position that the decolonization of Gibraltar was not a case of self-determination but of the restoration of Spain's territorial integrity, Spain had interpreted the call for negotiations between it and the United Kingdom, in General Assembly resolution 2429 (XXIII) of 18 December 1968, as an authorization to claim the Territory. No General Assembly resolution, however, could - as Spain claimed - create a doctrine depriving a particular people of a universal, inalienable right.

16. The people of Gibraltar also rejected General Assembly resolution 2353 (XXII) of 19 December 1967, which had rejected the 1967 referendum held in Gibraltar, because by singling out the principle of territorial integrity and by referring to the disruption of national unity, the resolution could be interpreted as an endorsement of the Spanish claim to sovereignty over Gibraltar. Such a resolution, which appeared to condemn a free consultation of the wishes of a colonial people, had been without precedent in the Fourth Committee. The United Kingdom representative in the Committee at the time, Lord Caradon, had rightly declared it unworthy of the United Nations and a disgrace to the Committee, as was every subsequent resolution reaffirming such a position.

17. Gibraltar could be decolonized only in keeping with the procedures established in the Plans of Action endorsed by the General Assembly in 1980 and 1991 for the remaining Non-Self-Governing Territories. In that connection, he drew the attention of the Committee to paragraph 5 of resolution 35/118 of 11 December 1980 rejecting unilateral action by colonialist Powers which violated the right of Territories to self-determination.

18. The Special Committee, after three years of direct dialogue with the representatives of Gibraltar, had acquired a new perspective on the question of Gibraltar and a better understanding of its people's aspirations. His Government expected a similar response to develop in the General Assembly. It also hoped to see a change in Spain's attitude and a new commitment on its part to self-determination for all peoples, including the Gibraltarians.

19. He formally invited the Secretary-General or a special representative to visit Gibraltar at the earliest possible date and report thereon to the General Assembly, in accordance with paragraph 8 of the 1991 Plan of Action (A/46/634/Rev.1). His Government was also fully committed to the holding of a referendum on self-determination, under the auspices of the United Nations, no later than 31 December 1999, as called for in paragraph 7 of the Plan. It looked to the Committee to stand by the people of Gibraltar.

20. Mr. Bossano withdrew.

Hearing of petitioners

Question of Gibraltar (A/C.4/50/2 and Add.1)

21. At the invitation of the Chairman, Mr. Schoenmakers (Dutch Group of the Friends of Gibraltar International) took a place at the petitioners' table.

22. Mr. SCHOENMAKERS (Dutch Group of the Friends of Gibraltar International (FGI)) said that FGI, officially founded on 1 January 1994, was a movement of individuals all over the world who supported the people of Gibraltar in their struggle for their national rights. It had over 1,500 members in 64 countries who, as democrats, believed in the rights of the individual and society to decide what future they wished to have. It was unacceptable that a theoretically democratic country - Spain - should attempt to annex a territory lost three centuries earlier, without regard for the feelings of those living there. When it came to the issue of Gibraltar, Spain was still in thrall to General Franco's nationalistic megalomania. It was hard to understand otherwise why it continued to harass Gibraltar and why its subjective feeling that Gibraltar was part of its territory could overrule the right of Gibraltarians to choose for themselves. Gibraltar had been part of Spain until 1704, but not since then. He wondered why Spain sought to delete 291 years of Gibraltar's history to satisfy its own subjective pride.

23. Perhaps the Committee wished to avoid disturbing the United Kingdom and Spain and to continue pretending that Gibraltar was a bilateral problem for those countries. If, on the other hand, the international community was really eager to fulfil the mandate of the International Decade for the Eradication of Colonialism, it should do more to understand Gibraltar's true nature and its aspirations. Gibraltar was a nation, neither English nor Spanish, but with a fully distinct identity. It wanted self-determination, and he called on the Committee to make that possible.

24. Mr. Schoenmakers withdrew.

25. At the invitation of the Chairman, Miss Roebken (International Federation of Liberal and Radical Youth) took a place at the petitioners' table.

26. Miss ROEBKEN (International Federation of Liberal and Radical Youth (IFLRY)) said that IFLRY, the forum for the youth organizations of liberal political parties all over the world, represented more than a million young liberals in over 45 countries. It campaigned for political and civil rights in cases where they were lacking, and Gibraltar was one of those cases.

27. IFLRY had supported the democratic decolonization of Gibraltar since 1991, and its constituents were concerned at the way the issue was addressed by both the metropolitan Power and the country seeking to annex Gibraltar. IFLRY believed that the reason why the international community had failed to recognize the fundamental rights of Gibraltar was that both the United Kingdom and Spain were influential members of the United Nations. There were no other serious impediments to Gibraltar's national freedom. While a representative of Spain would doubtless claim that Spain was ready to respect the interests of the Gibraltarian population, her belief was that they were a people not a

population, with rights that must be respected. She condemned the ultra-nationalistic position adopted by Spain on the issue, for the sake of a small piece of land lost 300 years earlier. On that issue alone Spain seemed not to have evolved since the times of its fascist dictatorship, but took every opportunity to harass the Gibraltarians, who had never been Spanish - having settled in the territory after 1704 - and never would be Spanish.

28. Unless the international community helped Gibraltar avoid the grasp of Spain the problem might break out of the bounds of politics. The people of Gibraltar were sick and tired of being denied of their most elementary human, civil and collective rights. In accordance with the aims of the International Decade for the Eradication of Colonialism the United Nations should take a lead in securing Gibraltar's rights.

29. Miss Roebken withdrew.

Question of New Caledonia (A/C.4/50/3)

30. At the invitation of the Chairman, Mr. Uregei (Congrès Populaire) took a place at the petitioners' table.

31. Mr. UREGEI (Congrès Populaire) said that following the announcement by the President of France on the resumption of nuclear tests an anti-nuclear movement had been formed in New Caledonia, comprising churches, political parties, trade unions and environmental groups, as well as other individuals and groupings. The movement had adopted a motion calling for the complete and immediate cessation of tests, recalling their dangers locally and world wide and noting that the United Nations General Assembly had condemned all military activity carried out by colonial Powers in Territories administered by them.

32. The General Assembly had also stated that colonial Territories should not be subjected to nuclear experiments or the testing of weapons of mass destruction. The countries of the South Pacific Forum had in 1985 adopted a treaty for the denuclearization of the Pacific, and the Melanesian Spearhead Group had condemned the decision of the French Government to resume nuclear testing in the Pacific. In April 1995 the European Parliament had expressly required member States of the European Union to abstain from nuclear testing. In June it had adopted a resolution regretting the French decision to resume such testing. Several thousand people had mounted peaceful anti-nuclear protests during July and August 1995; on 13 September 10,000 had marched through the streets of Nouméa. The movement demanded that the peoples concerned should be consulted and called on Australia to cease exporting uranium for the nuclear industry. It also called on the President of France to reverse his decision, bearing in mind that 65 per cent of French people were opposed to the resumption of nuclear tests in Polynesia. That position was supported by the evangelical church of New Caledonia and the Loyalty Islands, given the threats represented to the atolls by constantly repeated underground explosions and the release of dangerous toxins.

33. The South Pacific should be completely denuclearized, but that could be achieved only by full independence for the colonies concerned. France's nuclear testing centre had been based in Algeria, but once that country had become

independent the centre had been transferred to Mururoa Atoll. The questions of independence for a colony and nuclear testing were intertwined. He requested that Tahiti should be added to the list of Non-Self-Governing Territories, along with New Caledonia. In the latter the Congrès Populaire and the 32 traditional dignitaries - who were the true guardians of the Kanak people - had proclaimed the sovereignty of that people on 24 September 1994. Their decision had been communicated to the President of France, the Constitution of which recognized the customs and status of the Kanak people, but no response had yet been received.

34. The political situation in the Territory was still confused. The French Government remained unwilling to grant independence to New Caledonia, which was the third largest producer of nickel in the world. A framework law had permitted local representatives to run the country and thus move towards independence, but for that very reason the law had been rescinded in the 1960s. The French Government was similarly denying independence to the Kanak people. It preferred to fall back on the Matignon Accords, which guaranteed no such independence. Yet, after 141 years of the harmful effects of colonization by France, independence was what Kanaks desired and demanded. The Congrès Populaire awaited an invitation from the President of France to discuss sovereignty for the Kanak people.

35. Mr. Uregei withdrew.

Question of Western Sahara (A/C.4/50/4 and Add.1)

36. At the invitation of the Chairman, Mr. Ahmed (Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO)) took a place at the petitioners' table.

37. Mr. AHMED (Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO)) recalled that the first United Nations commission of inquiry dispatched to Western Sahara 20 years earlier, as well as the International Court of Justice in a subsequent judgement, had failed to support Morocco's claims to the then Territory. The Saharan people had from the start clearly opted for independence, a fact that would have been confirmed by the referendum on self-determination that the United Nations had been urging since 1965, which would have brought about decolonization peacefully and naturally. Instead, Morocco had invaded the country and imposed a brutal colonial occupation which was an affront to the principles of the Charter of the United Nations and which had been resisted for 20 years by the Saharan people.

38. The adoption of the settlement plan for Western Sahara, outlined in Security Council resolutions 658 (1990) and 690 (1991), and subscribed to by both parties, had been made possible by good-faith concessions by the Saharan side, but the subsequent implementation of the agreed arrangements for the proposed referendum had been deliberately subverted by new voter-identification and other conditions demanded by Morocco. Following further concessions by the Saharan party, and a welcome visit to Western Sahara by a Security Council mission in June 1995, the credibility of the self-determination referendum now depended chiefly upon the trustworthiness and transparency of the voter-identification operation, United Nations guarantees of compliance with the

results of the referendum, and the solution of transitional issues like the reduction and cantonment of Moroccan troops, the adoption of a code of conduct, the release of political prisoners and exchange of prisoners of war, and the presence of independent observers.

39. Large-scale fraud was perpetrated by the Government of Morocco. The most flagrant instance was incredible claims made by 3,000 settlers to the Identification Commission; there was a strong possibility that they had been coached to memorize particulars of false identities ascribed to them. The weaknesses of that coaching, however, had not withstood the slightest scrutiny. He therefore wondered how the Commission was to resolve the cases of the thousands of settlers who claim to be Saharans. There was no convincing answer to that question, on which depended the credibility of the referendum operation in Western Sahara. There had been not only an unseemly influx of applications, but evidence that the Government of the occupying Power had gained control over the pace and direction of the process. Evidence for that came from the Security Council mission, the former Vice-Chairman of the Identification Commission, various newspapers and the United States non-governmental organization Human Rights Watch. From all those sources it was clear that the Government of Morocco was putting pressure on all parties to ensure that the referendum process was not carried out in a transparent manner. Human Rights Watch had been harassed itself. In an open letter to the members of the Security Council, it had deplored the regular obstruction of the referendum process and urged the Council to send a strong signal to the Moroccan Government that its interference with the operation of the Mission must cease immediately. It feared that if the Mission were not promptly provided with the necessary tools and authority to organize and conduct a free and fair referendum there was a danger that it would be forced to withdraw.

40. All of the foregoing made it imperative that the United Nations exert the necessary efforts to restore the credibility of the operation and ensure the fair and transparent implementation of the Settlement Plan, as it was not only the credibility of the United Nations that was at stake but also the peace and security of the region.

41. Turning to the human rights situation in Western Sahara, he said that, over the 20 years of its occupation, the Moroccan Government had been responsible for the disappearance of over one thousand Saharans. Hundreds of Saharans were still missing and repression was growing as the referendum drew nearer. After referring to a case, in October 1992, in which MINURSO had refused to protect six young Saharans who had sought shelter at its Smara base and who were subsequently sentenced to 20 years in prison by a Moroccan military tribunal, he noted that more recently - on 23 June 1995 - eight young Saharans had been condemned to sentences of 15 to 20 years imprisonment for participating in a peaceful demonstration in support of independence.

42. The human rights situation in Western Sahara had deteriorated disturbingly since the arrival of MINURSO. The argument that MINURSO could do nothing because human rights did not fall within its mandate could not provide an excuse since the Geneva conventions on the protection of the rights of civilian populations under foreign occupation were rules of humanitarian law that did not require an express mandate for a United Nations mission to uphold them. The

Frente POLISARIO wished to reiterate its request, made in 1993 to the United Nations Human Rights Committee, that a commission of inquiry be sent to Western Sahara. It also wished to inform the Committee that the 200 Moroccan prisoners of war who had been released by the Frente POLISARIO as a gesture of peace in 1989 had not yet been permitted by the Moroccan Government to return to their country.

43. The coming months would be crucial for the future of the peace process. The holding of a fair, free and impartial referendum for the Saharan people to determine its future was the approach agreed to, and the only one consonant with the principles laid down in the United Nations Charter. The Frente POLISARIO also believed that a direct, responsible and constructive dialogue between it and the Kingdom of Morocco could help create a climate conducive to the transparent and fair implementation of the peace plan.

44. Mr. Ahmed withdrew.

Question of Guam (A/C.4/50/5 and Add.1)

45. At the invitation of the Chairman, Mr. Parkinson (Speaker, Twenty-third Guam Legislature) took a place at the table.

46. Mr. PARKINSON (Speaker, twenty-third Guam Legislature) said that although much of the third world had been politically decolonized since the Second World War, most of it had at the same time been economically recolonized. Once saddled with unbearable debt or excessive foreign investment, third world countries became enslaved to the first world. That process was visible in Guam, where the country's economic policies were dictated by lenders rather than by the needs of the people.

47. New forms of economic manipulation, like the various arrangements for "free trade", combined with other factors to create and perpetuate a system whereby the rich industrial nations could continue to exploit the resources of the third world, and the practice of enforcing economic and political dictates through military incursions remained prevalent.

48. The goals of the United Nations must change to reflect the realities of the economic recolonization of the third world. The third world nations could only achieve a position of parity with respect to the internal control of their economies and in negotiating economically with the first world if they united in an economic union of their own. Among the goals of such a union must be a collective repudiation of the debt owed, directly or indirectly, by the third world to the first world; restriction of the ability of the first world and its instrumentalities to exploit the natural resources and labour of the third world; the imposition of trade restrictions and tariffs to protect the resources and industry of third world countries and the imposition of monetary and other controls to thwart economic exploitation by first world interests.

49. The first world, for its part, should learn from the example of the Roman Empire that it would destroy itself unless it ceased to exploit other peoples, reestablished moral values, gave all of the colonial peoples justice in the form of self-determination of their future political status and ended the continuing

economic domination, recolonization and exploitation of the third world. As the next step in Guam's quest for decolonization, he asked the United Nations to send a visiting mission to Guam and to help the Chamorro people to achieve its dream of self-determination.

50. Mr. Parkinson withdrew.

51. At the invitation of the Chairman, Ms. Alvarez Cristobal (Twenty-third Guam Legislature) took a place at the table.

52. Ms. ALVAREZ CRISTOBAL (Twenty-third Guam Legislature) stressed that Guam's draft Commonwealth Act, currently under consideration by the United States, which provided for limited self-government under an interim political status, was not an act of self-determination; instead, it recognized the right to self-determination of the indigenous Chamorro people, an issue which now had overwhelming support in Guam. She was concerned to ensure that the proposed change in political status was not misunderstood, since, in that event, Guam might be removed from the list of Non-Self-Governing Territories, thereby denying the Chamorro people its only means towards decolonization. She hoped that the much delayed review process would soon be completed with a view to approval of the draft Act by the United States Congress. Despite the uncertain outcome of its longstanding initiative on political change, Guam was resolutely prepared to meet the challenge of self-government and would not accept indefinite responses to that initiative.

53. The immigration policies imposed on Guam by the administering Power contravened the relevant United Nations resolutions on decolonization, and had produced a systematic influx of immigrants to Guam, disrupting its demographic composition and seriously threatening the genuine exercise of Chamorro self-determination. Of increasing concern was the economic, as well as social, impact of immigrants from Micronesia, particularly since the administering Power had failed to meet its agreed obligation to provide the requisite economic relief in that connection and disputed the documented costs. Moreover, it had negotiated the relevant immigration agreements without the participation of Guam. She therefore hoped that the Commonwealth Act, as drafted, would succeed in controlling immigration.

54. The administering Power's significant military presence in Guam was changing as a result of to its efforts to reduce military spending. The recommendations of the United States Department of Defense concerning the realignment, transfer or closure of various military facilities, however, would adversely affect Guam's economy in view of the high job losses entailed. A further recommendation was that the United States Government should retain the related assets, including land, for an unspecified future contingency, thereby depriving the people of Guam of the use of such assets for alternative economic activities. Those recommendations were thus wholly unacceptable and untenable, and Guam continued to press the United States Government for the return of assets and land free of the onerous conditions which had been imposed in that connection. Guam's decolonization was therefore impeded by United States military interests, as well as by the land tenure policies applied, the administering Power having confiscated one-third of the country's land for its exclusive use by unilaterally imposing its legal system in that respect.

Such unjustified seizures constituted a violation of the legitimate decolonization process which required that people under colonial rule should control and dispose of their natural resources freely and without interference.

55. Guam's incipient attempts at economic development, which had initially been repressed, focused primarily on the incentives provided for the eligible entry of Guam products into the United States. However, numerous industries in Guam had been eliminated due to subsequent arbitrary changes in the definition of those products. Such actions led to feelings that Guam's economic interests had been sacrificed to overriding strategic concerns. With a view to developing a self-sufficient economy, Guam had begun instead to promote the island as a tourist destination in order to free itself from dependency on funding from the United States. Although its business income had increased enormously as a result, economic diversification was none the less stymied by policies that enabled the administering Power to control prime land on the island. Such constraints should be addressed with a view to allowing an acceptable level of growth to emerge in other sectors.

56. In conclusion, she recommended that the resolution to be developed on the subject should focus on recognition of the right of the indigenous Chamorro people to self-determination; reform of the administering Power's programme concerning the prompt transfer of property to the people of Guam; recognition that the Chamorro people were now a minority in their homeland as a result of immigration into Guam; the need for expeditious negotiations between the administering Power and the Guam Government concerning Guam's draft Commonwealth Act; and the need for the administering Power to accelerate the transfer of land to the people of Guam and take the steps needed to safeguard its property rights, to recognize and respect the political rights of the Chamorro people, as well as its cultural and ethnic identity, and respond to immigration concerns, to facilitate the early dispatch of a visiting mission to Guam, to facilitate participation by the people of Guam in international organizations, and to return all assets and land associated with United States military bases to the people of Guam when and as they closed.

The meeting rose at 6.20 p.m.